

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today  
(1) was not written for publication in a law journal and  
(2) is not binding precedent of the Board.

Paper No. 26

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JOHANNES A. RITTER

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Appeal No. 1997-4279  
Application No. 08/486,702

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ON BRIEF

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Before COHEN, MCQUADE, and BAHR, Administrative Patent Judges.  
COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1  
through 5, 7, 11 through 15, and 27 through 30. These claims  
constitute all of the claims remaining in the application.

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Appellant's invention pertains to an apparatus for applying a coating material to a plurality of sheets as the sheets are conveyed past the apparatus. An understanding of the invention can be derived from a reading of exemplary claim 1, a copy of which appears in the APPENDIX to the brief (Paper No. 15).

As evidence of obviousness, the examiner has applied the documents listed below:

Klebanow et al. (Klebanow)	3,467,060	Sep. 16, 1969
Wahnschaff	4,325,321	Apr. 20, 1982
Pulskamp	5,009,408	Apr. 23, 1991
Pagendarm 1987 (German Document) <sup>1</sup>	3,606,199	Aug. 27,

The following rejections are before us for review.

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<sup>1</sup> Our understanding of this foreign language document is derived from a reading of a translation thereof. A copy of that translation is appended to this opinion.

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Claims 1 through 5, 7, 11 through 13, and 27 through 30 stand rejected under 35 U.S.C. § 103 as being unpatentable over the German reference in view of Klebanow.

Claim 14 stands rejected under 35 U.S.C. § 103 as being unpatentable over the German reference in view of Klebanow, as applied above, further in view of Pulskamp.

Claim 15 stands rejected under 35 U.S.C. § 103 as being unpatentable over the German reference in view of Klebanow, as applied in the first rejection above, further in view of Wahnschaff.

The full text of the examiner's rejections and response to the argument presented by appellant appears in the answer (Paper No. 16), while the complete statement of appellant's argument can be found in the brief (Paper No. 15).

In the brief (page 3), appellant indicates that all claims stand or fall together with respect to the rejection of claims 1 through 5, 7, 11 through 13, and 27 through 30. In

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accordance with 37 CFR 1.192(c)(7), we select claim 1 for review from among the claims of the above claim grouping, with the remaining claims standing or falling therewith. Accordingly, we shall focus exclusively upon claims 1, 14, and 15, infra.

#### OPINION

In reaching our conclusion on the obviousness issues raised in this appeal, this panel of the board has carefully considered appellant's specification and claims, the applied references,<sup>2</sup> and the respective viewpoints of appellants and the examiner. As a consequence of our review, we make the determinations which follow.

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<sup>2</sup> In our evaluation of the applied documents, we have considered all of the disclosure of each reference for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account not only the specific teachings, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

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The rejection of claim 1

We affirm the rejection of claim 1 under 35 U.S.C. § 103 as being unpatentable over the German reference in view of Klebanow. It follows that the rejection of claims 2 through 5, 7, 11 through 13, and 27 through 30 on this same ground is likewise

affirmed, since these claims stand or fall with claim 1, as earlier indicated.

Claim 1 is drawn to an apparatus for applying a coating material to a plurality of sheets as the sheets are conveyed past the apparatus, comprising, inter alia, (a) means for overlapping a plurality of sheets to form overlapped sheets, (b) a coating station comprising means for at least "partially drying" an adhesive coating, and (c) means for collecting adhesive coated sheets.

In applying the test for obviousness,<sup>3</sup> this panel of the board makes the determination that it would have been obvious to one having ordinary skill in the art, from a combined assessment of the applied prior art teachings, to provide the coating apparatus of the German reference (Fig. 2) with a feeder to

obtain overlapped sheets on the conveyor.<sup>4</sup> From our perspective, the incentive on the part of one having ordinary skill in the art for making this modification would have simply been to obtain the art-recognized benefit of overlapping sheets to be coated on a conveyor, i.e., the benefit of, in effect, an uninterrupted paper surface on the conveyor belt, as a consequence of which no coating can be

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<sup>3</sup> The test for obviousness is what the combined teachings of references would have suggested to one of ordinary skill in the art. See In re Young, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991) and In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981).

<sup>4</sup> The Klebanow teaching (Fig. 1; column 4, lines 41 through 44) also clearly instructs those versed in the coating art of the known feature of dual conveyor belts 15, 24 operated at different speeds to effect separation of overlapped sheets.

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applied to the belt surface and the belt remains clean; this benefit being well known in the coating art as exemplified by the explicit teaching of Klebanow (Fig. 1; column 3, lines 44 through 57).

The argument advanced by appellant (brief, pages 4 through 7) simply fails to persuade us that claim 1 is patentable under 35 U.S.C. § 103. Throughout the brief (pages 4 and 6), it is asserted that the German reference applies a "dry" pressure-sensitive adhesive to sheets of paper. This assessment is in error. Even appellant's own specification (page 1) discusses the German reference as teaching a "partially dried" adhesive. The German reference itself, in its Abstract, in claim 1, and in its description (page 5) expressly sets forth "at least partial drying" and "at least a partial drying process."

Appellant's focus upon the timing of separation of overlapped sheets with the present invention as compared to the teaching of Klebanow is acknowledged. However, separation

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timing is not consequential to the issue before us since the claims on appeal do not address separation or separation timing.

It is apparent to us that appellant has ignored the teaching of Klebanow (column 3, lines 49 through 57) relied upon by the examiner (answer, page 5) as the basis for the motivation for the modification of the German reference. Viewed as a whole, the Klebanow document explicitly reveals the known feature in the coating art of overlapping sheets to protect an underlying conveyor from being coated or covered with coating material. As we see it, this feature would have been recognized as beneficial for partially dried, dried, or wet coating materials. Thus, it cannot fairly be said to be a reference that "teaches away," as argued (brief, page 5). As explained above, and clearly contrary to the viewpoint of appellant (brief, page 6), the examiner's rejection is assessed as soundly based upon prior art teachings themselves which provide motivation for the proposed modification, clearly without reliance upon improper hindsight and an inappropriate use of appellant's own disclosure.



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The rejection of claim 14

We affirm the rejection of claim 14 under 35 U.S.C. § 103 as being unpatentable over the German reference in view of Klebanow and Pulskamp.

Claim 14, dependent from claim 1, adds the feature of a sheet injection station for periodically injecting a sheet between adhesive coated sheets.

Based upon the argument advanced in the brief (page 7), it is quite apparent to us that appellant relies solely upon argument previously addressed to the content of selected claim 1 to support the patentability of claim 14. Accordingly, we affirm the rejection of claim 14 since, as argued, it obviously stands or falls with claim 1, the rejection of which has been affirmed, supra.

The rejection of claim 15

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We reverse the rejection of claim 15 under 35 U.S.C. § 103 as being unpatentable over the German reference in view of Klebanow and Wahnschaff.

Claim 15, dependent from claim 1, adds the feature of "at least one vacuum belt connected to a source of low pressure for removing the overlapped sheets and adhesive coating material from the transferring means."

Clearly, the Wahnschaff document (Fig. 1) reveals that the utilization of a suction conveyor 21 in the coating art is a known expedient for transporting coated sheets of material such that the sheets cling to the conveyor. However, as can be readily discerned from the Wahnschaff disclosure, suction is applied exclusively to the upper flight of a conveyor belt 35, downstream of a coating station. Thus, even if the apparatus of the German reference incorporated a suction conveyor it would appropriately be applied downstream of a coating station, following the teaching of Wahnschaff. Thus, the combined teachings would not effect a vacuum belt for removing overlapped sheets and adhesive coating material "from

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the transferring means," as now claimed. Since the evidence proffered by the examiner would not have been suggestive of the noted feature of claim 15, the rejection thereof must be reversed.

In summary, this panel of the board has:

affirmed the rejection of claims 1 through 5, 7, 11 through 13, and 27 through 30 under 35 U.S.C. § 103 as being unpatentable over the German reference in view of Klebanow;

affirmed the rejection of claim 14 under 35 U.S.C. § 103 as being unpatentable over the German reference in view of Klebanow and Pulskamp; and

reversed the rejection of claim 15 under 35 U.S.C. § 103 as being unpatentable over the German reference in view of Klebanow and Wahnschaff.

The decision of the examiner is affirmed-in-part.

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No time period for taking any subsequent action in  
connection with this appeal may be extended under 37 CFR  
§ 1.136(a).

AFFIRMED-IN-PART

IRWIN CHARLES COHEN	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
JOHN P. MCQUADE	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
JENNIFER D. BAHR	)	
Administrative Patent Judge	)	

ICC:lmb

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